



New Jersey Department of
Corrections
Level I
Internal Management Procedures

Level I Internal Management
Procedure #
IMM.001.PSA.001

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Internal Management Procedure Title:

Zero Tolerance of Prison Sexual Assault

Effective Date:

July 1, 2013

Revised:

March 10, 2014

Authority:

PCS.001.005; Federal Prison Rape
Elimination Act of 2003 (PREA) 42
U.S.C. §§15601, 28 C.F.R. § 115.11,
115.61, 115.62, 115.63, 115.64,
115.67

Promulgating Office:

Division of Operations

**Professional Association Standard
cited:**

Applicability: This internal management procedure applies to all designated staff members of the New Jersey Department of Corrections.

Supersedes: N/A

Review Schedule:

This document is scheduled for annual review on or about March 15, 2015.

This document was reviewed and approved by:

Judith Lang, Chief of Staff on April 7, 2014

and

Mark Farsi, Deputy Commissioner on April 7, 2014.

Documentation of the reviews/approvals are maintained by the Office of Policy & Planning, APPM Unit.

I. PURPOSE

To establish policy regarding the New Jersey Department of Corrections' (NJDOC) zero tolerance to the sexual assault/rape of offenders while in the custody and care of the Department. Inmates who violate this policy shall be subject to prohibited act *.050 Sexual Assault, and a finding of guilt shall result in the most severe disciplinary sanctions (N.J.A.C. 10A:4-4.1 and 5.1).

II. DEFINITIONS

The following terms, when used in this policy, shall have the following meanings, unless the context clearly indicates otherwise:

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Disciplinary sanction means a proposed penalty that is imposed for a finding of guilt to a violation of a prohibited act.

New Jersey Department of Corrections (NJDOC) means that agency in the Executive Branch of the New Jersey State Government whose functions are to protect the public and provide for the custody, care, discipline, training and treatment of persons committed to State correctional facilities. In this document, this is also referred to as the “Department” or the “NJDOC.”

PREA means the Federal Prison Rape Elimination Act of 2003. This act was established to provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and provide information, resources, and recommendations and funding to protect individuals from prison rape, sexual abuse and sexual harassment. The major provisions of PREA include adherence to a zero-tolerance standard for the incidence of inmate sexual assault and rape, the development of standards for the detection, prevention, reduction and punishment of prison rape and the collection and dissemination of information on the incidence of prison rape.

PREA Coordinator means the NJDOC staff member designated by the NJDOC Commissioner to coordinate and guide agency and individual facility implementation of a zero-tolerance approach to preventing, detecting and responding to sexual abuse and sexual harassment.

Prohibited act means conduct in violation of rules and regulations, which will result in the imposition of sanctions.

Sexual Abuse means sexual abuse of an inmate by another inmate and sexual abuse of an inmate by a staff member, contractor or volunteer. Sexual abuse by another inmate or sexual abuse by a staff member, contractor or volunteer includes any of the following acts, if the victim does not consent, is coerced into such an act by overt or implied threats of violence, or is unable to consent or refuse:

1. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
2. Contact between the mouth and the penis, vulva, or anus;
3. Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
4. Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person, excluding contact incidental to a physical altercation.
5. Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

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6. Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
7. Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
8. Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1) – (5) of this section;
9. Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, and
10. Voyeurism by a staff member, contractor, or volunteer.

Sexual Harassment means repeated and unwelcome sexual advances, requests for sexual favors or verbal comments, gestures or actions of a derogatory or offensive sexual nature by one inmate to another and repeated verbal comments or gestures of a sexual nature to an inmate by a staff member, contractor or volunteer, including but not limited to demeaning references to gender, sexually suggestive or derogatory comments about body or clothing or obscene language or gestures.

Victim means a person who reports having been subjected to sexual assault, harassment and/or rape or a person who suffers personal, physical or psychological injury.

III. POLICY

It is the policy of the New Jersey Department of Corrections to maintain a zero tolerance toward all forms of sexual abuse and sexual harassment, and actively enforce all internal policies and procedures related to the prevention, detection, and response to such conduct. When the NJDOC learns that an inmate is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the inmate. The NJDOC is committed to ensuring the protection of victims of sexual assault, and will employ multiple measures including but not limited to housing changes or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims, and emotional support services for inmates or staff who fear retaliation for reporting sexual abuse or harassment or for cooperating with investigations in order to fulfill this commitment. Furthermore, the NJDOC will fully investigate and aggressively prosecute those who are involved in such conduct if, in fact, a crime has been committed. Any staff who is terminated for a violation of the zero tolerance prison sexual assault policy shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

IV. PROCEDURES

A. Offender Reporting

Individuals that sexually abuse, assault or harass inmates can only be disciplined and/or prosecuted if the sexual misconduct is reported. Offenders who are victims or have knowledge or sexual abuse or harassment should **immediately** report the incident to a staff member

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(custody, civilian, medical, etc.) so that intervention, medical and investigative procedures can be initiated. Offenders may also utilize the following alternate reporting methods:

1. Offenders may utilize the Inmate Remedy System Form to report sexual abuse or harassment; however, **offenders are not required to go through the Inmate Remedy System to report allegations of sexual abuse or harassment.** Designated staff will process such reports as a high priority in accordance with established facility emergency procedures and forward copies to the facility's Administrator and PREA Compliance Manager; or
2. Offenders may use the free confidential telephone hotline to report sexual abuse or harassment to the Corrections Ombudsman. Offenders may also utilize the Office of the Corrections Ombudsman Request for Assistance form or send written correspondence to their office; or
3. Offenders may use the locked confidential Special Investigation Division (SID) mailbox to report sexual abuse or harassment to the SID Investigative Unit.
4. Offenders may not deliberately falsify reports of sexual abuse or harassment. Incidents of false reporting will result in disciplinary action.

B. Prevention

1. All NJDOC staff, contract employees and volunteers with direct and/or incidental contact with offenders receive documented PREA training.
2. During intake and as offenders are transferred between facilities, all offenders will receive information about the NJDOC's policies regarding the Prison Rape Elimination Act (PREA) and Zero Tolerance for Sexual Assault/Rape. Additional information regarding prevention, intervention, treatment and counseling will be provided by designated staff in a manner that is clearly understood by offenders.
3. All staff and offenders are to be alert for behaviors in offenders which may indicate that some form of sexual abuse may be occurring or offenders are at risk for sexual abuse. Some of these include: changes in routine, mood or behavior, to include eating, hygiene and sleeping habits; avoiding staff members or staying too close to staff; staying out of dining halls or showers, requesting cell changes, etc.

C. Intervention/Staff Reporting

1. Staff who receive an initial report of sexual assault or harassment must separate the victim from the alleged assailant to protect the victim and prevent further violence.
2. Staff who receive an initial report of sexual assault or harassment are required to promptly intervene on the victim's behalf to ensure the victim receives prompt

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medical and psychological assistance, as appropriate to his or her needs and the circumstances of the alleged offense.

3. Regardless of the source, NJDOC staff, contract employees and volunteers who receive information concerning offender on offender sexual assault, or who observe an incident of offender on offender sexual assault, or have reasonable cause to suspect that an offender is a victim of sexual assault (inmate on inmate or staff on inmate), that retaliation against inmates or staff who reported such an incident occurred, or that any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation, must immediately report the information or incident to their immediate supervisor and/or shift supervisor. This report must be made regardless of when or at which institution the alleged incident occurred. The immediate supervisor/shift supervisor will immediately notify the Special Investigations Division and forward all written reports to the SID investigative unit. The assigned investigator will notify local law enforcement.
4. Apart from reporting to designated supervisors or officials, staff shall not reveal information related to a sexual abuse report to anyone other than to the extent necessary to make treatment, investigation, and other security and management decisions.
5. An employee, contractor or volunteer who fails to report an allegation, or coerces or threatens another person to submit inaccurate, incomplete or untruthful information with the intent to alter a report, may face disciplinary charges, up to and including dismissal, even on a first offense.

D. Security

Once an incident of sexual assault has been reported, staff will follow appropriate security procedures to include:

1. Providing medical and mental health assistance for the alleged victim as soon as possible;
2. Separating the victim from the alleged assailant;
3. If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the victim not take any actions that could destroy evidence, including washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.
4. Taking reasonable measure to identify, isolate and separate witnesses;
5. Preserve and protect any crime scene until appropriate steps can be taken to collect evidence.
6. Secure the incident scene so items cannot be removed or introduced; and
7. Permitting only assigned investigators to assess the scene.
8. If the first staff responder is not a custody staff member, the responder shall be required to request the victim not take any actions listed in subsection (3) of this section, and then immediately notify custody staff.

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V. Cross Reference Documents and DOCPS/IMP

DOCPS/IMP/Document Number	Title	Effective/Revision Date
ADM.001.000	Mission, Goals, Objectives & Organizational Structure of the New Jersey Department of Corrections	Revised February 1, 2008
PCS.001.005	Sexual Assault/Prison Rape Elimination Act (PREA): Sexual Assault Advisory Council	Revised July 1, 2013
PCS.007.000	Office of Victim Services: Mission, Goals and Objectives	Revised July 17, 2008
IMM.001.004	Zero Tolerance Policy: Sexual Assault	Revised July 1, 2013
PCS.001.PREA.001	Sexual Assault Advisory Council Procedures	Revised July 1, 2013
CUS.001.CSM.01	Crime Scene Investigation	Revised August 1, 2013

VI. Applicable Forms

Form Number	Form Title	Effective/Revision Date
	Shift Commander's Action Sheet (Inmate Sexual Assault)	2/1/14